

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
CARL A. ERICKSON,  
d.b.a. WESTLAND APTS.,  
  
Appellant,  
  
vs.  
  
PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,  
  
Respondent.

PCRB No. 518

**VS.**

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
Respondent. )

THIS MATTER being an appeal of a \$50.00 civil penalty for an alleged smoke emission violation of respondent's Regulation I; having come on regularly for hearing before the Pollution Control Hearings Board on the 21st day of June, 1974, at Seattle, Washington; and appellant, Carl A. Erickson, d.b.a. Westland Apts., appearing pro se and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board members present at the hearing being Walt Woodward, presiding officer and W. A. Gissberg; and the Board having considered the sworn testimony, exhibits, records

1 and files herein and arguments of counsel and having entered on the  
2 25th day of June, 1974, its proposed Findings of Fact, Conclusions of  
3 Law and Order, and the Board having served said proposed Findings,  
4 Conclusions and Order upon all parties herein by certified mail, return  
5 receipt requested and twenty days having elapsed from said service; and

6 The Board having received no exceptions to said proposed Findings,  
7 Conclusions and Order; and the Board being fully advised in the premises;  
8 now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
10 Findings of Fact, Conclusions of Law and Order, dated the 25th day of  
11 June, 1974, and incorporated by this reference herein and attached  
12 hereto as Exhibit A, are adopted and hereby entered as the Board's  
13 Final Findings of Fact, Conclusions of Law and Order herein.

14 DONE at Lacey, Washington, this 6th day of August, 1974.

15 POLLUTION CONTROL HEARINGS BOARD

16  
17 Walt Woodward  
18 WALT WOODWARD, Chairman

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20 W. A. GISSBERG  
21 W. A. GISSBERG, Member

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26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER

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Mr. Carl A. Erickson  
Westland Apartments  
2551-13th Avenue West  
Seattle, Washington 98119

Mr. Keith D. McGoffin  
Burkey, Marsico, Rovai & McGoffin  
818 South Yakima Avenue  
Tacoma, Washington 98405

Puget Sound Air Pollution Control Agency  
410 West Harrison Street  
Seattle, Washington 98119

the foregoing being the last known post office addresses of the above-named parties. I further certify that proper postage had been affixed to the envelopes deposited in the U.S. mail.

LARENE C. BARLIN  
POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
CARL A. ERICKSON,  
d.b.a. WESTLAND APTS.,  
  
Appellant,  
  
vs.  
  
PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,  
  
Respondent.

PCHB No. 518

## FINDINGS OF FACT, CONCLUSIONS AND ORDER

This matter, the appeal of a \$50.00 civil penalty for an alleged smoke emission violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Walt Woodward, presiding officer, and W. A. Gissberg) at a formal hearing in the Seattle facility of the Board of Industrial Insurance Appeals on June 21, 1974.

Appellant appeared pro se; respondent through Keith D. McGoffin.  
Sherril Darkow, Olympia court reporter, recorded the proceedings.

Witnesses were sworn and testified. Exhibits were admitted.

1 From testimony heard and exhibits examined, the Pollution Control  
2 Hearings Board makes these

3 FINDINGS OF FACT

4 I.

5 On January 9, 1974, from the boiler stack of the Westland  
6 Apartments, owned by appellant and located at 2551 - 13th Avenue West,  
7 Seattle, King County, there was emitted for six consecutive minutes  
8 smoke of a density equivalent to No. 5 on the Ringelmann Scale.

9 II.

10 This emission, noted by an inspector on respondent's staff,  
11 resulted in appellant being served by respondent with Notice of Violation  
12 No. 8993, citing Section 9.03 of respondent's Regulation I, and Notice  
13 of Civil Penalty No. 1353, in the sum of \$50.00, being the subject of  
14 this appeal.

15 III.

16 Section 9.03 of respondent's Regulation I makes it unlawful to  
17 cause or allow the emission for more than three minutes in any one  
18 hour of an air contaminant darker in shade than No. 2 on the Ringelmann  
19 Scale. Section 3.29 authorizes respondent to levy a civil penalty of  
20 not more than \$250.00 for any violation of Regulation I.

21 IV.

22 Subsequent to January 9, 1974, appellant, at a cost of more than  
23 \$200.00, installed equipment in the Westland Apartments' boiler to  
24 utilize a fuel less likely to pollute than the fuel used on  
25 January 9, 1974.

26  
27 FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

1 V.

2 Any Conclusion of Law hereinafter recited which is deemed to be  
3 a Finding of Fact, is adopted herewith as same.

4 From these Findings, the Pollution Control Hearings Baord comes  
5 to these

6 CONCLUSIONS

7 I.

8 Appellant was in violation of respondent's Regulation I on  
9 January 9, 1974 as cited in Notice of Violation No. 8993.

10 II.

11 While the penalty in Notice of Civil Penalty No. 1353, being one-  
12 fifth of the maximum allowable amount, is reasonable, appellant,  
13 having spent more than \$200.00 in an effort to be in compliance with  
14 Regulation I, is entitled to additional clemency.

15 III.

16 Any Finding of Fact herein which is deemed to be a Conclusion  
17 of Law is adopted herewith as same.

18 Therefore, the Pollution Control Hearings Board issues this

19 ORDER

20 The appeal is denied, but the \$50.00 penalty is suspended pending  
21 no similar violation for a period of six months from the date this  
22 Order becomes final.

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27 FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

1 DONE at Lacey, Washington this 25<sup>th</sup> day of June, 1974.

2 POLLUTION CONTROL HEARINGS BOARD

3 Walt Woodward

4 WALT WOODWARD, Chairman

5 W. A. Gissberg

6 W. A. GISSBERG, Member

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26 FINDINGS OF FACT,  
27 CONCLUSIONS AND ORDER